principal case is not within the doctrine as thus limited, and the result is no doubt equitable, for at no time did the Illinois executor have power to collect the tax out of the proceeds that were distributed in Ohio. Yet this consideration has had no weight where the question was simply that of succession to personal property. *In re Hodges*, 150 Pac. 344 (Cal.).

TORTS — NATURE OF TORT LIABILITY IN GENERAL — EFFECT OF BAD MOTIVE IN PERSUADING TENANTS NOT TO DEAL WITH THE PLAINTIFF. — The defendant, without any coercion, induced his tenants, who had short term leases, to cease using electric power furnished by the plaintiff. The defendant did this because he was an enemy of one of the plaintiff's officers. The plaintiff sues to enjoin this action of the defendant. *Held*, that the injunction will be denied. *People's Land & Mfg. Co.* v. *Beyer*, 154 N. W. 382 (Wis.).

By the sounder view, damage caused intentionally is *primâ facie* actionable. See 29 HARV. L. REV. 86. There is authority that this rule does not apply to the use of one's own property. *Mahan* v. *Brown*, 13 Wend. (N. Y.) 261; *Letts* v. *Kessler*, 54 Oh. St. 73, 42 N. E. 765. But the better view is that a defendant should be held liable, even in such cases. *Flaherty* v. *Moran*, 81 Mich. 52, 45 N. W. 381. See *Horan* v. *Byrnes*, 72 N. H. 93, 54 Atl. 945. Again, by the trend of present authority, a defendant, who, with the sole motive of injuring the plaintiff, has indirectly injured him by influencing the conduct of third persons, is held liable even though no breach of contract was involved. *Lumley* v. *Gye*, 2 El. & Bl. 216; *Walker* v. *Cronin*, 107 Mass. 555; *Tuttle* v. *Buck*, 107 Minn. 145, 119 N. W. 946; *Lewis* v. *Bloede*, 202 Fed. 7. *Contra*, *Passaic Print Works* v. *Ely, etc. Co.*, 105 Fed. 163. No reason is perceived why the same result should not follow when the defendant makes use of his position as a landlord to injure the plaintiff indirectly, without justification. See *Chesley* v. *King*, 74 Me. 164. Nor can it be argued that the defendant in the principal case had the undisputed right of an owner to employ on his land the people most acceptable to him, for however short the leases, it is clear that he had conveyed away the present rights of ownership at least to such an extent that the plaintiffs were not his but his tenants' employees. Hence if he acted solely from a desire to injure the plaintiff, the injunction should have been granted. However, if he acted to any extent with the motive of protecting his reversionary interest, the plaintiff was rightly refused relief.

TRIAL — VERDICT — JOINT TORTFEASORS: SEVERANCE OF DAMAGES. — A passenger was hurt in a collision between a street car and a train. He sued both companies. The jury found a verdict against both defendants, assessed damages at $10,000, and ordered that one defendant pay $6,000 and the other $4,000. The trial court entered judgment for $10,000 against both. *Held*, that the judgment must be reversed and a new trial had. *Rathbone* v. *Detroit United Ry.*, 154 N. W. 143 (Mich.).

The defendants here are joint tortfeasors. *Mathews* v. *Delaware L. & W. R. Co.*, 56 N. J. L. 34, 27 Atl. 919. This being so, they are both liable for all the damage suffered by the plaintiff; the jury must simply find that damage, and, in the absence of statute, cannot apportion it among them. *Hill* v. *Goodchild*, 5 Burr. 2790. *Contra*, *White* v. *M'Neily*, 1 Bay (S. C.) 11. The trial court should enforce this rule, when necessary, by sending back the jury to bring in a proper verdict; there is then no further difficulty. *Fuller* v. *Chamberlain*, 11 Met. (Mass.) 503; *Washington Market Co.* v. *Clagett*, 19 App. D. C. 12; *Olson* v. *Nebraska Telephone Co.*, 87 Neb. 593, 127 N. W. 916. When this is not done it leaves the verdict irregular. But ordinarily a verdict that decides the issue is not vitiated by the addition of something beyond the jury's power to add. The unauthorized addition, if fairly severable from the other findings, may be stricken out as surplusage and judgment entered on the rest. *Statler*

v. *United States*, 157 U. S. 277; *Southern Ry. Co.* v. *Oliver*, 1 Ga. App. 734, 58 S. E. 244. *Cf. Barth* v. *State*, 18 Conn. 432. But in split verdict cases there is sometimes simply a finding of several sums against separate defendants, and it is then felt that the jury have not clearly found the plaintiff's damages to be an amount larger than the largest sum found against any particular defendant. He can therefore have judgment only for that sum, though the judgment is sometimes against all the defendants and sometimes against the particular defendant only. *O'Shea* v. *Kirker*, 8 Abb. Pr. Rep. 69; *Holley* v. *Mix*, 3 Wend. (N. Y.) 350; *Halsey* v. *Woodruff*, 9 Pick. (Mass.) 555. See *Crawford* v. *Morris*, 5 Gratt. (Va.) 90, 103. Even when there is a finding of the total and then a separation, some courts treat the case like those just discussed. *Schultz* v. *Hunter*, 2 Browne (Pa.) 233. If the plaintiff treats it in this way and remits damages accordingly, there can be no objection. *Warren* v. *Westrup*, 44 Minn. 237, 46 N. W. 347; *Nashville Ry. & Light Co.* v. *Trawick*, 118 Tenn. 273, 99 S. W. 695. But if he claims judgment against all the defendants for the total, it is submitted that he ought to have it. His damages clearly have been found equal to the total, the rest of the verdict is an unauthorized addition fairly severable from the prior finding, and ought to be discarded as surplusage. *Currier* v. *Swan*, 63 Me. 323; *Westfield, etc. Co.* v. *Abernathy*, 8 Ind. App. 73, 35 N. E. 399; *San Marcos, etc. Co.* v. *Compton*, 48 Tex. Civ. App. 586, 107 S. W. 1151. See *Post* v. *Stockwell*, 34 Hun (N. Y.) 373, 374. *Contra*, *Whitaker* v. *Tatem*, 48 Conn. 520. Since the damages are measured solely by the extent of the plaintiff's injury, to argue, as the court here does, that the amount found would have been different had the jury realized that the defendants must be jointly liable, is to assume that understanding of the law would make the jury change its conclusions as to fact, an assumption not to be indulged. See *Raphael* v. *Bank of England*, 17 C. B. 161.

TRUSTS — RESTRAINTS ON ALIENATION OF *CESTUI'S* EQUITABLE LIFE ESTATE — EFFECT OF ACQUISITION OF REMAINDER BY *CESTUI*. — A fund was left to trustees to hold for the plaintiff's life and apply the income to his use, the principal after his death to revert to the testator's estate. The residuary legatees who inherited this reversionary interest sold it to the plaintiff who now prays for a decree dissolving the trust. The decree was refused. *Dale* v. *Guaranty Trust Co.*, 773 N. Y. Comb. 601 (App. Div., 1st Dept.).

The trust described fell within the New York statute declaring the *cestui's* interest in an income to be applied to his use for life to be inalienable. NEW YORK PERSONAL PROPERTY LAW (CONSOL. LAWS, ch. 41 [LAWS OF 1909, ch. 45], § 15). Authorities differ as to the nature of the reversionary interest. The trustees may be regarded as possessing the absolute legal title, the plaintiff having an equitable life estate and the acquired equitable reversion in fee. See 1 PERRY, TRUSTS, 5 ed., § 318. Secondly, it is suggested that the trustees have an estate for the plaintiff's life, followed by a legal reversion in fee held by the plaintiff. See *Stevenson* v. *Mayor of Liverpool*, L. R. 10 Q. B. 81, 85; *Nicoll* v. *Walworth*, 4 Denio (N. Y.) 385, 390; *Moore's Estate*, 198 Pa. St. 611, 612. If the *cestui* here acquired an equitable reversion, his life estate could not merge therein in violation of the statute, so far as to give him an alienable equitable fee. See *Moore's Estate, supra*. But if such a merger were possible and the life estate extinguished, then by the rule of common law the *cestui* could force the trustee to transfer to him the legal life estate. *Inches* v. *Hill*, 106 Mass. 575. See 2 PERRY, TRUSTS, 5 ed., § 816 *a*. On the other hand, if the *cestui* acquired a legal reversion, no question of merger could ever arise, for there can be no fusion of estates of dissimilar nature. *Moore's Estate, supra*. In such case the plaintiff prays the dissolution of an active trust without any justification. By a former New York statute, when a *cestui* acquired the remainder or a part thereof, he could release his life interest to himself, where-